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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,969	12/21/2000	Shigeo Kure	ITOH-050-035	6271

20374 7590 03/27/2003

KUBOVCIK & KUBOVCIK  
SUITE 710  
900 17TH STREET NW  
WASHINGTON, DC 20006

EXAMINER
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GRIFFIN, WALTER DEAN

ART UNIT	PAPER NUMBER
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1764

DATE MAILED: 03/27/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/740,969

Applicant(s)

KURE ET AL.

Examiner

Walter D. Griffin

Art Unit

1764

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 March 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 10 October 2002. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-18

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

*Walter D. Griffin*  
Walter D. Griffin  
Primary Examiner  
Art Unit: 1764

Continuation of 5. does NOT place the application in condition for allowance because: Some of applicant's arguments appear to be based on a belief that the Angevine reference does not require that the catalyst beds include particles of the same size. This is not persuasive because Angevine explicitly discloses in column 5, lines 19-21 that it is preferred to use catalyst particles such as 1/32 inch extrudates or the equivalent disposed in three fixed beds. The examiner asserts that a reasonable interpretation of this statement is that the three fixed beds contain particles that are the same shape and size.

The argument that it is not clear from Angevine whether the catalyst beds are the same as each other in dimensions is not persuasive because the claims do not contain this limitation.

The argument that Angevine does not concretely disclose the relationship represented by the formula:  $1.15V_n \geq V_{n+1}$  is not persuasive. Angevine discloses that the fixed beds of catalyst are preferred to contain 1/32-inch extrudate catalyst particles. In other words, each layer of catalyst of Angevine would necessarily contain approximately the same number of particles per unit volume. Therefore, the particle density of Angevine would be clearly related to the bulk density and the examiner maintains that the pore volumes shown in Table 1 would satisfy the claimed relationship.

The argument that there is no motivation to select a fourth catalyst stage that satisfies the claimed relationships is not persuasive because Angevine discloses three or more catalyst layers. Since the explicitly disclosed three catalyst system satisfies the claimed relationship, the examiner maintains that one having ordinary skill in the art would also be motivated to have the fourth and any subsequent layers satisfy the claimed relationship.

## PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Shigeo KURE et al.

Serial Number: 09/740,969

Group Art Unit: 1764

Filed: December 21, 2000

Examiner: W. D. Griffin

For: REACTOR FOR HYDROTREATING AND PROCESS FOR PRODUCING ULTRALOW  
SULFUR HEAVY OILS BY THE USE OF THE REACTOR

PETITION FOR EXTENSION OF TIME

Assistant Commissioner  
for Patents  
Washington, D.C. 20231

March 10, 2003

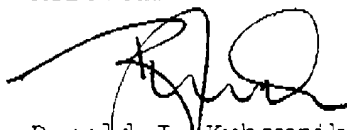
Sir:

Applicants petition the Commissioner of Patents and Trademarks to extend the time for response to the Notice of Appeal filed October 10, 2002, for a third month from February 10, 2002, to March 10, 2003.

Please charge the required fee of \$520.00 and credit any overpayment to our Deposit Account No. 111833.

Respectfully submitted,

KUBOVCIK & KUBOVCIK



Ronald J. Kubovcik  
Reg. No. 25,401

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